

## Message Text

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ACTION AF-08

INFO OCT-01 EUR-12 IO-13 ISO-00 DHA-02 OMB-01 CIAE-00  
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R 171516Z FEB 77

FM AMEMBASSY PRETORIA  
TO SECSTATE WASHDC 6876  
INFO AMCONSUL CAPE TOWN  
AMCONSUL DURBAN  
AMEMBASSY LONDON  
AMCONSUL JOHANNESBURG  
USMISSION USUN NEW YORK

UNCLAS PRETORIA 0751

CAPE TOWN FOR EMBASSY

E.O. 11652: N/A

TAGS: WA, PINT, SHUM, SF

SUBJ: NAMIBIA: SUPREME COURT HEARS SWAKOPMUND TRIAL AND  
SENTENCE APPEAL

REF: PRETORIA 4013,

1. APPELLATE DIVISION OF SOUTH AFRICAN SUPREME COURT HEARD  
APPEAL FEBRUARY 15-16 IN BLOEMFONTEIN AGAINST CONVICTIONS AND  
DEATH SENTENCES FOR AARON MUSHIMBA AND HENDRIK SHIKONGO  
(APPELLANTS 1 AND 2), 7-YEAR SENTENCE FOR RUANA NAMBINGA  
(APPELLANT NO. 3), AND 5-YEAR SENTENCE FOR ANNA NGHIHONDJWA  
(APPELLANT NO. 4). ALL CONVICTED AT SWAKOPMUND, NAMIBIA,  
ON MAY 12, 1976, UNDER THE TERRORISM ACT. POLITICAL OFFICER  
BALTIMORE ATTENDED. COURT RESERVED JUDGEMENT UNTIL SPECIFIED DATE.

2. DEFENSE ATTORNEYS BEGAN FEB 15 SESSION WITH SPECIAL ENTRY FOR  
ALL APPELLANTS RELATING TO BREACH OF PRIVILEGE RESULTING FROM  
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POLICE INFILTRATION OF DEFENSE FILES DURING TRIAL. WINDHOEK  
SUPREME COURT HAD PREVIOUSLY ALLOWED ENTRY. DEFENSE ALSO  
ARGUED FOR TWO SPECIAL ENTRIES FOR SHIKONGO IN CONNECTION WITH  
LOWER COURT FAILURE TO CONDUCT INSPECTION IN LOCO AND REFUSAL  
TO CALL WITNESSES. PROSECUTION ADVANCED STATE CASE AFTER  
DEFENSE COMPLETED ARGUMENTS AGAINST CONVICTION AND SENTENCE  
OF ALL APPELLANTS EXCEPT NO 4 FOR WHOM APPEAL MADE AGAINST CON-

VICTION ONLY ON MERITS. DEFENSE EXERCISED BRIEF RIGHT OF REPLY  
AT CONCLUSION OF FEBRUARY 16 SESSION.

3. DEFENSE ATTORNEYS ARE OPTIMISTIC OVER OUTCOME. ONE ATTORNEY  
SPECULATED FAVORABLE RULING ON MERITS FOR APPELLANTS 1, 3 AND 4  
AND RELEASE OF NO. 2 UNDER BREACH OF PRIVILEGE SPECIAL ENTRY.  
THREE-MAN COURT HAMMERED STATE OVER BREACH OF PRIVILEGE  
QUESTION AND APPEARED VISIBLY DISPLEASED WITH STATE CASE.  
NO DATE SET FOR ISSUANCE OF JUDGEMENT.

4. AIRGRAM ON PROCEEDINGS TO FOLLOW.  
BOWDLER

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NNN

## Message Attributes

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**Review Markings:**  
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22 May 2009  
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